

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

WAYNE D. BUTTS,

Petitioner,

v.

Case No. 2:12cv210

HAROLD W. CLARKE, Director,
Virginia Department of Corrections,

Respondent.

FINAL ORDER

Before the Court is a Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 and the Respondent's Motion to Dismiss the Petition. In his Petition, the pro se Petitioner alleges violations of his constitutional rights in relation to a prison disciplinary hearing that was held after he was charged with the disciplinary offense of "threatening bodily harm" against prison staff personnel. At the hearing, the Petitioner was found guilty of the offense and sentenced to twenty-five days in isolation.

The matter was referred for disposition to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and (C), Federal Rule of Civil Procedure 72(b), Local Civil Rule 72, and the April 2, 2002, Standing Order on Assignment of Certain Matters to United States Magistrate Judges. In a Report and

Recommendation filed on October 22, 2013, the Magistrate Judge recommended the Motion to Dismiss be granted and the Petition be denied and dismissed with prejudice. The parties were advised of their right to file written objections to the Report and Recommendation. The Court has received no objections to the Report and Recommendation, and the time for filing such objections has expired.


The Court does hereby **ACCEPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed October 22, 2013, ECF No. 50, and it is therefore **ORDERED** that the Respondent's Motion to Dismiss, ECF No. 19, be **GRANTED**, and that the Petition, ECF No. 1, be **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of the Respondent.

The Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of the Court at the Walter E. Hoffman United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date judgment is entered. Because the Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b)(1), the Court declines to

issue a certificate of appealability. See Miller-El v. Cockrell,
537 U.S. 322, 335-36 (2003).

The Clerk is DIRECTED to forward a copy of this Order to
the Petitioner and counsel of record for the Respondent.

It is so ORDERED.



Mark S. Davis
United States District Judge

Mark S. Davis
United States District Judge

Norfolk, Virginia

Date: December 6, 2013